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Attorneys for Plaintiffs, the Class and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

MELISSA HEBDON, on behalf of herself
and all similarly aggrieved employees,

Plaintiff,

v.

MISSION HEALTHCARE SERVICES,
LLC; HEALTHY LIVING NETWORK
RESOURCES, LLC; HEALTHY LIVING
AT HOME - MONTEREY, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV000226

**DECLARATION OF ANDREW SWARTZ IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: July 1, 2025

Time: 10:00 a.m.

Dept.: 14

1 I, Andrew Swartz, declare as follows:

2 1. I am an attorney duly admitted to practice in the State of California and am a
3 partner in the law firm of Swartz & Kennedy- counsel of record for Plaintiffs Melissa Hebdon
4 (hereafter “Melissa”) and Annette Lewis (collectively sometimes called “Plaintiffs”). I have
5 personal knowledge of the facts set forth below and if called to testify I could and would do so
6 competently.

7 2. Based on their own independent investigation and evaluation, the Parties and their
8 respective counsel are of the opinion that settlement for the consideration and on the terms set
9 forth in the Joint Stipulation of Class and Representative Action Settlement (“Settlement
10 Agreement”) attached as Exhibit 1 hereto for the courts ready reference, is fair, reasonable, and
11 adequate and is in the best interests of the Class and Defendants in light of all known facts and
12 circumstances and the expenses and risks inherent in litigation.

13 3. Under the terms of the Settlement agreement, all three law firms who worked on
14 this action are requesting a total of \$408,333.33 which is one third of the total class settlement of
15 \$1,225,000.

16 4. As more particularly summarized below, I have spent a total of 89 hours
17 rendering legal services in this action. Although my hourly rate is typically \$500 for commercial
18 disputes, my hourly rate for contingency cases where there is real risk of not receiving any
19 proceeds for many years is valued at \$595 per hour, which I believe is fair and consistent with
20 my colleagues in California.

21 5. By way of background, in or about September 2020, Melissa Hebdon was
22 employed by Defendants and given the title of Executive Director (RN) She began work in
23 October 2020 having to move her family from outside of Monterey County to obtain this
24 position. In or about August 2021. I originally met with Melissa and began reviewing her claims
25 for gender discrimination along with evaluating her wage and hour claims. To assist me in
26 evaluating Melissa's Labor Code claims, I associated with the law firm of Fitzpatrick and
27 Swanston who in turn associated with Diversity Law Group. The Fitzpatrick and Diversity firms
28 specialize in wage and hour and misclassification claims.

1 6. Between August and December 2021 I personally spent a minimum of **40 hours**
2 reviewing Melissa's employment file, multiple emails and communications including with her
3 supervisors and upper management along with some skeletal facts and documents about male
4 employees in similar positions being paid differently than female employees. In addition, I
5 assisted in the preparation and filing of the administrative claim with the DEFH as it was then
6 called.

7 7. On or about Jan 2022, I participated in drafting and filing the original complaint
8 in this action which included a class action claim for various wage and hour violations along
9 with Melissa's individual claims.

10 8. In August 2022 I participated in drafting the First Amended complaint adding
11 additional wage and hour violations along with an additional Plaintiff Annette Lewis.

12 9. Between August 2022 and July 2023, I incurred an additional **16 hours** of
13 attorney time, including attending (by zoom during Covid) two full-day mediations attempting to
14 resolve this action. The mediator was Stever Serratore who is an experienced employment law
15 mediator. Although neither mediation resulted in a global settlement, progress was made as
16 detailed class information was disclosed enabling all counsel and their parties to further evaluate
17 and perform calculations necessary to resolve the wage and hour claims.

18 10. Class Counsel engaged in extensive factual investigation before settling, including
19 the exchange of formal and informal discovery, involving propounding and responding to formal
20 written discovery, analyzing putative class member time and payroll records, and reviewing
21 Defendants' pertinent payroll policies. This allowed Class Counsel to conduct a full analysis of
22 exposure. A summary of the status of the litigation as of July 2023 is set forth in the parties Joint
23 Case Management Statement, attached hereto as Exhibit 2.

24 11. Settlement negotiations continued and intensified into early 2024 culminating in a
25 Memorandum of Understanding (hereafter the "MOU") which took months to negotiate and draft
26 and finally was signed in April 2024. The 8-page MOU contemplated two long form settlement
27 agreements; one for the Class and related wage and hour claims and one for Melissa's individual
28 claims. During this time frame I spent a minimum of **17 hours** on this dispute.

1 12. Between May and August 2024, I spent an additional **16 hours** on this action
2 including participating in negotiations and drafting of both the individual long form settlement
3 agreement and the "Joint Stipulation of Class Action which is a 28 page highly complicated
4 Settlement Agreement fully executed in August 2024.

5 13. In or about September 2024 the Settlement Agreement was submitted to the court.
6 As part of that process, I worked on the Declaration of Melissa Hebdon and my own Declaration
7 in support of Preliminary Approval of the Class Action which the court approved in October
8 2024.

9 14. This settlement was obtained for the benefit of the Class, as opposed to the
10 individual Class Representatives. Based on my review of all the documents and information, and
11 based on my experience in employment litigation cases, I believe this settlement to be fair,
12 adequate, and reasonable.

13 15. My qualifications include my bachelor's degree from the University of Pittsburgh
14 in 1970 and my Juris Doctor degree from the University of Santa Clara School of Law in 1973. I
15 have practiced law since 1973-over 52 years---all of which has been in Monterey County
16 generally handling a wide variety of civil litigation matters including employment litigation. I
17 have represented both employers and employees.

18 16. Neither counsel nor their respective firms have any relationship with any of the
19 proposed recipients of the settlement that would create an actual or potential conflict of interest.
20 The Parties further agree that the State Bar's Justice Gap Fund satisfies the legislative intent set
21 out in Code of Civil Procedure§ 384(a), in that the organization helps further the purposes of the
22 underlying action and promote justice for all Californians.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and if called as a witness I could and would competently testify to
3 each of the matters stated herein, and I state that these matters are based upon my own personal
4 knowledge acquired through first-hand observation, except where stated otherwise. This
5 declaration was executed by me on June 6, 2025, in Monterey, California.

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7 Andrew H Swartz
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21 Attorneys for Plaintiffs, the Class and Aggrieved Employees

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23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF MONTEREY**

25 MELISSA HEBDON, on behalf of herself
26 and all similarly aggrieved employees,

27 Plaintiff,

28 v.

MISSION HEALTHCARE SERVICES,
LLC; HEALTHY LIVING NETWORK
RESOURCES, LLC; HEALTHY LIVING
AT HOME - MONTEREY, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV000226

*Assigned to the Honorable Carrie M. Panetta for
all purposes*

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

1 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

2 This Joint Stipulation of Class and Representative Action Settlement (“Agreement” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiffs Melissa Hebdon and
4 Annette Lewis (collectively, “Plaintiffs”) and Defendants Mission Healthcare Services, LLC,
5 Healthy Living Network Resources, LLC and Healthy Living at Home – Monterey, LLC
6 (“Defendants”). Plaintiffs and Defendants collectively are referred to in the Agreement as “the
7 Parties.”

8 **A. DEFINITIONS**

9 The following definitions are applicable to this Agreement. Definitions contained
10 elsewhere in this Agreement shall also be effective:

11 1. “Action” means *Hebdon v. Mission Healthcare Services, Inc.*, Superior Court of
12 California, County of Monterey, Case No. 22CV000226.

13 2. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class and
14 Representative Action Settlement.

15 3. “Class” or “Class Member(s)” means all persons who were formerly or are
16 currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living
17 at Home Entities in California at any time during the Class Period.

18 4. “Class Counsel” means B. James Fitzpatrick, Laura L. Franklin of Fitzpatrick &
19 Swanson; Larry W. Lee, Howard L. Magee, and Kristen M. Agnew of Diversity Law Group, P.C.,
20 and Andrew H. Swartz of Swartz & Kennedy.

21 5. “Class Counsel Award” means such award of fees and costs and expenses as the
22 Court may authorize to be paid to Class Counsel for the services they have rendered and will render
23 to Plaintiffs and the Class in the Action. Defendants agree not to oppose a Class Counsel Award
24 of up to one-third (1/3) of the Gross Settlement Amount (\$1,225,000.00), *i.e.*, the sum of Four
25 Hundred Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents
26 (\$408,333.33), and costs in the amount of up to Sixty Thousand Dollars (\$60,000.00), subject to
27 the Court finally approving this Settlement.

28 6. “Class Data and List” means a true and complete list of all Class Members that

Defendants will compile, based on their business records, and provide to the Settlement Administrator within fifteen (15) days after the Court grants preliminary approval of the Settlement. The Class List shall be formatted in Microsoft Office Excel and shall, to the extent the information is available to Defendants, include each employee's full name, his or her last known home address, telephone number, Social Security Number, beginning and ending dates of employment, number of pay periods worked during the Class Period, and number of pay periods worked during the PAGA Period.

7. "Class Period" means the period from June 23, 2021 through the April 15, 2024.

8. "Class Representatives" or "Plaintiffs" means Plaintiffs Melissa Hebdon and Annette Lewis.

9. "Complaint" means the operative Second Amended Complaint for Damages, Civil Penalties and for Injunctive Relief ("SAC") filed by Plaintiffs in this Action.

10. "Counsel for Defendants" or "Defense Counsel" means Patricia Stambelos of Stambelos Law Office; and Gregory M. Saylin and Kody L. Condos of Holland & Hart, LLP.

11. "Court" means the Superior Court for the State of California, County of Monterey, or any other court taking jurisdiction of the Action.

12. "Defendants" means Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC, and Healthy Living at Home – Monterey, LLC.

13. "Effective Date" shall be the date the Court enters an order granting final approval of the Settlement. If objections are filed to the Settlement and/or any appeal is made, then the "Effective Date" shall be 30 days after the appeal is withdrawn or after all appellate review is exhausted and the final approval decision becomes final.

14. "Enhancement Payment" means the amount that the Court authorizes to be paid to the Class Representatives, in addition to their Individual Class Payment and Individual PAGA Penalty Payment, in recognition of their efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting final approval, the Parties agree that each Class Representative shall be paid up to Ten Thousand Dollars (\$10,000.00) each (collectively, Twenty Thousand Dollars [\$20,000.00]) from the Gross Settlement Amount.

1 15. “Final Approval” means that the Final Approval Order and Judgment have been
2 entered by the Court.

3 16. “Gross Settlement Amount” means the Gross Settlement Amount of One Million
4 Two Hundred Twenty-Five Thousand Dollars (\$1,225,000.00) to be paid by Defendants. The
5 Gross Settlement Amount includes all Individual Class Payments, the Enhancement Payments,
6 Settlement Administration Costs, the PAGA Allocation, and Class Counsel Award.

7 17. “Healthy Living at Home Entities” means the following California-based Home
8 Health locations operated by Mission Healthcare Services or Healthy Living at Home, including
9 the following: Healthy Living at Home – East Bay; Healthy Living at Home - Fresno; Healthy
10 Living at Home - Modesto; Healthy Living at Home - Monterey; Healthy Living at Home - Palm
11 Desert; Healthy Living at Home - Redding; Healthy Living At Home – San Diego and Healthy
12 Living at Home - San Jose.

13 18. “Individual PAGA Penalty Payment” means each PAGA Employee’s portion of
14 the PAGA Allocation calculated in accordance with the calculations described in Section C of this
15 Settlement.

16 19. “Individual Class Payment” means the amount payable from the Net Settlement
17 Amount to each Settlement Class Member.

18 20. “Net Settlement Amount” means the balance of the Gross Settlement Amount
19 remaining after deduction of the approved Enhancement Payments, Settlement Administration
20 Costs, the PAGA Allocation, and Class Counsel Award. The entire Net Settlement Amount is the
21 maximum amount that will be available for distribution to Settlement Class Members.

22 21. “Notice of Objection” means a Class Member’s valid and timely written objection
23 to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector’s full
24 name, signature, address, and telephone number; (b) a written statement of basis for the objection;
25 and (c) any copies of papers, briefs, or documents upon which the objection is based. The Notice
26 of Objection must be returned by mail to the Settlement Administrator at the specified address
27 indicated in the Notice Packet and must be postmarked by the Response Deadline.

28 22. “Notice Packet” means the Notice of Proposed Class Action Settlement,

substantially in the form attached as Exhibit A.

23. "PAGA Allocation" means the portion of the Gross Settlement Amount that the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under the Private Attorneys General Act of 2004 (Lab. Code § 2698, *et seq.*, "PAGA"). Subject to Court approval and pursuant to California Labor Code § 2699(l), the Parties agree that the PAGA Allocation shall be One Hundred Fifty Thousand Dollars (\$150,000.00).

24. "PAGA Employee(s)" means all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California at any time during the PAGA Period.

25. "PAGA Period" means the period from September 28, 2020 through April 15, 2024.

26. "Parties" means Plaintiffs and Defendants collectively.

27. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

28. "Qualified Settlement Fund" means a fund, account, or trust established under California state law and by the Settlement Administrator.

29. "Released Class Claims" means any and all claims, rights, demands, liabilities, and causes of action of any kind, whether known or unknown, arising from the facts pleaded in the Second Amended Complaint for violation of common law, California law and/or federal law which was or could have been raised in the Second Amended Complaint based on the facts pleaded, including but not limited to claims based on the Fair Labor Standards Act (29 U.S.C. §§ 201 *et seq.*), California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226, 226.7, 510, 512, 1174, 1194, 1197, and 2802, and, California Code of Regulations, Title 8 Section 11000 *et seq.*, the applicable Industrial Welfare Commission (IWC) Wage Orders, and Business & Professions Code sections 17200 *et seq.*; that arose during the Class Period.

30. "Released PAGA Claims" means all claims for penalties under the California Private Attorneys General Act, including without limitation, interest, costs and attorneys' fees related thereto, predicated on Defendants' violation of Labor Code, including sections 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 227.3, 510, 512, 558,

1 1174, 1194, 1197, 1197.1, 1198, 1199, and 2698 *et seq.* that accrued during the PAGA Period and
2 were alleged by Plaintiffs in their LWDA Notice Letters and were or could have been alleged in
3 the Second Amended Complaint.

4 31. "Released Parties" means Defendants, other Healthy Living at Home Entities in
5 California, and their former and present employees, directors, shareholders, officers, owners,
6 attorneys, agents, insurers, successors, assigns, parents, subsidiaries, affiliates, or legal
7 representatives and any individual or entity which could be jointly liable with Defendants and all
8 persons or entities acting by, through, under, or in concert with any of them.

9 32. "Request for Exclusion" means a timely letter submitted by a Class Member
10 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (1)
11 clearly state that the Class Member does not wish to be included in the Settlement; (2) set forth the
12 name, address, telephone number, and last four digits of the Social Security Number of the Class
13 Member requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the
14 Settlement Administrator at the specified address indicated in the Notice Packet; and (5) be
15 postmarked on or before the Response Deadline.

16 33. "Response Deadline" means sixty (60) days after the Settlement Administrator
17 initially mails the Notice Packet to Class Members, and the last date on which Class Members may
18 submit Requests for Exclusion or Notices of Objections to the Settlement.

19 34. "Settlement" means the Agreement among the Parties to resolve the Action, as set
20 forth in this Stipulation.

21 35. "Settlement Administration Costs" means the fees and expenses reasonably
22 incurred by the Settlement Administrator as a result of the procedures and processes expressly
23 required by this Agreement, which are estimated at Twenty-Four Thousand Dollars (\$24,000.00).
24 Any portion of the Settlement Administration Costs not used or approved by the Court shall be
25 added to the Net Settlement Amount.

26 36. "Settlement Administrator" means Phoenix Settlement Administrators.

27 37. "Settlement Class" or "Settlement Class Members" means all Class Members who
28 do not submit valid and timely Requests for Exclusion.

1 38. “Settlement Payment Check” means the payment of the Individual Class Payment
2 to Settlement Class Members and Individual PAGA Penalty Payment to PAGA Employees.

3 **B. FACTUAL BACKGROUND**

4 1. On September 28, 2021, Plaintiff Melissa Hebdon (“Plaintiff Hebdon”) filed a
5 written notice with the California Labor & Workforce Development Agency (“LWDA”) alleging
6 that Defendants violated Labor Code sections 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218,
7 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, and 1199,
8 and the applicable California Industrial Welfare Commission Wage Order, pursuant to Labor Code
9 section 2699 (“Hebdon LWDA Letter”).

10 2. On January 25, 2022, Plaintiff Hebdon initiated this Action in Monterey County
11 Superior Court. In the initial complaint, Plaintiff Hebdon asserted individual claims for: (1)
12 misrepresentation [Labor Code § 970]; (2) violation of the Equal Pay Act [Labor Code § 1197.5];
13 (3) discrimination based on sex in violation of the FEHA [Govt. Code § 12940(a)]; (4) wrongful
14 discharge in violation of public policy; (5) failure to provide meal periods [Labor Code §§ 226.7
15 and 1198]; and (6) failure to provide rest period [Labor Code §§ 226.7 and 1198]. She further
16 alleged class claims for: (1) failure to pay hourly and overtime wages [Labor Code §§ 1194 and
17 1198]; (2) failure to provide accurate itemized wage statements [Labor Code §§ 226, 1174 and
18 1175]; (3) failure to pay wage upon termination [Labor Code §§ 201, 202 and 203]; and (4) unfair
19 business practices [Business and Professions Code §§ 17200 *et. seq.*]. Plaintiff Hebdon also
20 asserted a claim for civil PAGA penalties predicated on the Labor Code violations set forth in the
21 Hebdon LWDA Letter.

22 3. On May 3, 2022, Defendants filed their Answer, stating their general denial of all
23 facts and allegations of the initial complaint, and setting forth their affirmative defenses.

24 4. On June 1, 2022, Plaintiff Hebdon propounded requests for production of
25 documents and special interrogatories seeking documents and information related to class
26 certification, including the number of putative class members, the number of putative class
27 members who separated employment, the average hourly rate of putative class members and
28 Defendants’ policies and procedures utilized to calculate compensable time worked by putative

1 class members. On August 16, 2022, Defendants served objections and responses to the initial
2 discovery. Defendants subsequently provided supplemental responses and amended supplemental
3 responses.

4 5. On August 23, 2022, Plaintiff Anette Lewis (“Plaintiff Lewis”) filed a written
5 notice with the LWDA alleging that Defendants violated Labor Code sections 201, 201.3, 202,
6 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194,
7 1197, 1197.1, 1198 and 1199, and the applicable California Industrial Welfare Commission Wage
8 Order, pursuant to Labor Code section 2699 (“Lewis LWDA Letter”).

9 6. On August 30, 2022, Plaintiffs filed the first amended complaint, in order to add
10 Plaintiff Lewis as an additional plaintiff and class representative.

11 7. On October 10, 2022, the Parties engaged in mediation with Steve Serratore, an
12 experienced wage and hour class action mediator. Although the Parties made progress towards
13 settlement at the mediation, they did not reach a resolution of the Action.

14 8. On November 30, 2022, Defendants filed their Answer to the First Amended
15 Complaint, stating their general denial of all facts and allegations of the initial complaint, and
16 setting forth their affirmative defenses.

17 9. On January 30, 2023, the Parties participated in a second day of private mediation
18 with Mr. Serratore. The Parties did not reach a resolution of the Action and resumed litigation.

19 10. On August 18, 2023, Defendants served requests for production of documents and
20 special interrogatories. Plaintiffs served responses to the discovery, on October 26, 2023.

21 11. The Parties also stipulated to the production of the contact information of putative
22 class members, subject to the *Belaire-West* opt-out process. On August 30, 2023, *Belaire-West*
23 notices were disseminated to the putative class.

24 12. On November 8, 2023, Plaintiffs filed the operative Second Amended Complaint
25 for Damages, Civil Penalties and for Injunctive Relief, in order to: (1) add allegations regarding
26 retaliation and sex discrimination on behalf of Plaintiff Hebdon; (2) add an individual cause of
27 action for retaliation [Labor Code § 1102.5] on behalf of Plaintiff Hebdon; and (3) add a class
28 claim for violation to pay vacation wages at the regular rate of pay [Labor Code § 227.3].

1 13. Shortly thereafter, the Parties agreed to participate in a third mediation. In
2 connection with the mediation, Class Counsel engaged Econ One to analyze the extensive payroll
3 data produced by Defendants, which allowed counsel to prepare a full damage analysis.

4 14. On December 8, 2023, Defendants filed their Answer to the Second Amended
5 Complaint, stating their general denial of all facts and allegations of the initial complaint, and
6 setting forth their affirmative defenses.

7 15. On February 12, 2024, the Parties participated in a full-day mediation with Michael
8 Mandel. After the exchange of further information and extended negotiations, the Parties reached
9 the present class-wide settlement. The settlement discussions were conducted at arm's-length.

10 16. While Defendants deny any wrongdoing, the Parties recognize the risk, expense,
11 and delay in continuing the Action, and therefore believe the Settlement to be fair, reasonable, and
12 adequate. Accordingly, the Parties desire to settle, compromise, and discharge all disputes and
13 claims arising from or relating to the Action.

14 **C. NON-ADMISSION OF LIABILITY**

15 Defendants deny any liability for any claim in the Action. Neither this Settlement, nor
16 any document referred to or contemplated, nor any action taken to carry out this Settlement, is,
17 may be construed as, or may be used as, an admission, concession, or indication by or against
18 Defendants of any unlawful conduct, fault, wrongdoing, or liability whatsoever.

19 **D. CALCULATION AND DISTRIBUTION OF GROSS SETTLEMENT AMOUNT**

20 1. Settlement Consideration. Defendants shall pay the sum of the Gross Settlement
21 Amount as specified in this Agreement, which shall be used to pay: (1) Individual Class Payments;
22 (2) Class Counsel Award; (3) Enhancement Payments; (4) Settlement Administration Costs; and
23 (5) the PAGA Allocation. The Parties agree that this is a non-reversionary Settlement and that no
24 portion of the Gross Settlement Amount shall revert to Defendants. Except as provided in Section
25 D hereof, and in the Confidential Settlement and General Release Agreement between Hebdon
26 and Defendants (the "Hebdon Settlement Agreement"), in no event shall Defendants be required to
27 pay more than the Gross Settlement Amount as specified in this Agreement, with the exception of
28 employer-side payroll taxes owed on Individual Class Payments classified as wages.

1 2. Calculation of Gross Settlement Amount. The Gross Settlement Amount was
2 calculated with, and is premised on, Defendants' representation that there are approximately
3 49,882 pay periods in which Class Members worked at least one shift during the Class Period. In
4 the event the number of pay periods at issue exceeds 49,882 by more than ten percent (*i.e.*, 54,871)
5 as determined by the Settlement Administrator, the Gross Settlement Amount shall increase
6 proportionately for each pay period in excess of 54,871.

7 3. Funding of the Gross Settlement Amount. Within thirty (30) days of the Effective
8 Date, Defendants shall make a one-time deposit of the Gross Settlement Amount into a Qualified
9 Settlement Fund to be established by the Settlement Administrator.

10 4. Class Counsel Award. Defendants agree not to oppose or impede any application
11 or motion by Class Counsel for attorneys' fees of up to one-third (1/3) of the Gross Settlement
12 Amount (\$1,225,000.00), *i.e.*, the sum of Four Hundred Eight Thousand Three Hundred Thirty-
13 Three Dollars and Thirty-Three Cents (\$408,333.33), and costs in the amount of up to Sixty
14 Thousand Dollars (\$60,000.00), which shall be paid from the Gross Settlement Amount. Class
15 Counsel understands that the Court has final discretion in any fee award. The Settlement
16 Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys'
17 fees, costs, and expenses. Any portion of the Class Counsel Award not awarded to Class Counsel
18 shall be added to the Net Settlement Amount and shall be distributed to Settlement Class Members
19 as provided in this Agreement. Notwithstanding any other provision of this Agreement, if the Court
20 should fail to award attorneys' fees to Class Counsel in the full amount provided for in this
21 Agreement, no order of the Court or modification of any order of the Court concerning the amount
22 of any attorneys' fees to be paid by Defendants to Class Counsel pursuant to this settlement shall
23 constitute grounds for cancellation or termination of the Agreement or grounds for limiting any
24 other provision of the Final Order and Judgment. It is agreed that no order of the Court, including
25 any order concerning attorneys' fees, may alter or otherwise increase the Gross Settlement
26 Amount.

27 5. Enhancement Payments. Defendants agree not to oppose or impede any application
28 or motion by Plaintiffs for each to receive an Enhancement Payment of up to Ten Thousand Dollars

1 (\$10,000.00) (collectively, Twenty Thousand Dollars [\$20,000.00]). The Enhancement Payments
2 shall be paid from the Gross Settlement Amount and shall be paid in addition to Plaintiffs'
3 Individual Class Payments as Settlement Class Members and Individual PAGA Penalty Payments
4 as PAGA Employees. Plaintiffs understand that the Court has final discretion in awarding any
5 Enhancement Payments. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs
6 reflecting their respective Enhancement Payment. Plaintiffs shall be solely and legally
7 responsible to pay any and all applicable taxes on their Enhancement Payment and shall hold
8 Defendants harmless from any claim or liability for taxes, penalties, or interest arising as a result
9 of the Enhancement Payment. Any portion of the Enhancement Payments not awarded to
10 Plaintiffs shall be added to the Net Settlement Amount and shall be distributed to Class Members
11 as provided in this Agreement.

12 6. Settlement Administration Costs. The Settlement Administrator shall be paid for
13 the reasonable costs of administration of the Settlement from the Gross Settlement Amount,
14 currently estimated at Twenty-Four Thousand Dollars (\$24,000.00). These costs, which shall be
15 paid from the Gross Settlement Amount, shall include, *inter alia*, the required tax reporting on the
16 Individual Class Payments and Individual PAGA Penalty Payments, the issuing of W-2 and 1099
17 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the Gross
18 Settlement Amount and Class Counsel Award, and providing necessary reports and declarations.
19 Any portion of the Settlement Administration Costs not allowed shall be added to the Net
20 Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

21 7. PAGA Allocation. Subject to Court approval, the Parties agree that the amount of
22 One Hundred Fifty Thousand Dollars (\$150,000.00) of the Gross Settlement Amount shall be
23 designated for satisfaction of claims for civil penalties under the PAGA. The Settlement
24 Administrator shall pay seventy-five percent (75%) of the PAGA Allocation, *i.e.*, the sum of One
25 Hundred Twelve Thousand Five Hundred Dollars (\$112,500.00), to the LWDA. The remaining
26 twenty-five percent (25%), *i.e.*, the sum of Thirty-Seven Thousand Five Hundred Dollars
27 (\$37,500.00), shall be distributed to PAGA Employees ("Net PAGA Payment").

28 8. Individual PAGA Penalty Payment Calculation. The Net PAGA Payment shall be

1 allocated proportionally to PAGA Employees on a pro rata basis, based on the number of pay
2 periods worked by a PAGA Employee during the PAGA Period. The Settlement Administrator
3 will calculate the Individual PAGA Penalty Payments by first dividing the Net PAGA Payment
4 by the total number of pay periods worked by all PAGA Employees during the PAGA Period.
5 That value will then be multiplied by the number of pay periods that each respective PAGA
6 Employee worked during the PAGA Period. PAGA Employees are entitled to 100% of the Net
7 PAGA Payment. Defendants maintain no reversionary right to any portion of the Net PAGA
8 Payment.

9 9. Individual Class Payments. The Net Settlement Amount shall be used to satisfy
10 Individual Class Payments to Settlement Class Members in accordance with the terms of this
11 Agreement. The Settlement Administrator will calculate the Individual Class Payments by first
12 dividing the Net Settlement Amount by the total number of pay periods worked by all Class
13 Members during the Class Period. That value will then be multiplied by the number of pay
14 periods that each respective Class Member worked during the Class Period. Settlement Class
15 Members are entitled to 100% of the Net Settlement Amount. Defendants maintain no
16 reversionary right to any portion of the Net Settlement Amount. If there are any timely submitted
17 Requests for Exclusion, the Settlement Administrator shall proportionately increase the
18 Individual Class Payments for each Settlement Class Member so that the amount distributed to
19 Settlement Class Members equals 100% of the Net Settlement Amount.

20 10. Tax Allocation of Individual Class Payments and Individual PAGA Penalty
21 Payments. All Individual Class Payments shall be allocated as ten percent (10%) to wages and
22 ninety percent (90%) to penalties. Individual PAGA Penalty Payments shall be allocated as 100%
23 to penalties. The amount of payment shall be reported on IRS Forms W-2 and 1099, as appropriate,
24 by the Settlement Administrator.

25 11. Tax Liability. Defendants, Defense Counsel, the Settlement Administrator, and
26 Class Counsel make no representation as to the tax treatment or legal effect of the payments called
27 for hereunder, and Plaintiffs, Settlement Class Members and PAGA Employees are not relying on
28 any statement, representation, or calculation by Defendants, Defense Counsel, Class Counsel, or

1 by the Settlement Administrator in this regard. Plaintiffs, Settlement Class Members and PAGA
2 Employees understand and agree that they will be solely responsible for the payment of any and
3 all taxes and penalties assessed on their respective payments described herein and will defend,
4 indemnify, and hold Defendants, other Healthy Living at Home Entities in California, and their
5 former and present employees, directors, shareholders, officers, owners, attorneys, agents,
6 insurers, successors, assigns, parents, subsidiaries, affiliates, members, managers, or legal
7 representatives and any individual or entity that could be jointly liable with Defendants, Defense
8 Counsel, Class Counsel, and the Settlement Administrator free and harmless from and against any
9 claims resulting from treatment of such payments as non-taxable penalties/damages.

10 12. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
11 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
12 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
13 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
14 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
15 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
16 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
17 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
18 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR
19 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
20 EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL
21 FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
22 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
23 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
24 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
25 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
26 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
27 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
28 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY

1 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
2 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
3 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
4 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
5 AGREEMENT.

6 13. Administration of Taxes by the Settlement Administrator. The Settlement
7 Administrator shall be responsible for issuing to Plaintiffs, Settlement Class Members, PAGA
8 Employees, and Class Counsel, W-2 and 1099 Forms or other tax forms as may be required by law
9 for all amounts paid pursuant to this Agreement.

10 14. Distribution of Payments Under the Settlement. Within ten (10) business days of
11 Defendants funding the Gross Settlement Amount, the Settlement Administrator shall pay: (1) the
12 Individual Class Payments to Settlement Class Members; (2) the Individual PAGA Penalty
13 Payments to PAGA Employees; (3) seventy-five percent (75%) of the PAGA Allocation to the
14 LWDA; (4) the Enhancement Payments to Plaintiffs; and (5) Class Counsel Award to Class
15 Counsel. The Settlement Administrator shall also issue a payment to itself for services performed
16 in connection with the Settlement.

17 15. Non-Negotiated Settlement Checks. Any checks issued by the Settlement
18 Administrator to Settlement Class Members and PAGA Employees shall be negotiable for one
19 hundred and eighty (180) calendar days. Those funds represented by settlement checks returned as
20 undeliverable and the funds which correspond with the settlement checks that are not negotiated
21 within one hundred and eighty (180) calendar days after issuance shall be remitted to the *cy pres*
22 recipient, California State Bar's Justice Gap Fund.

23 16. No Credit Toward Benefit Plans. The Individual Class Payments made to
24 Settlement Class Members, the Individual PAGA Penalty Payments made to PAGA Employees,
25 the Enhancement Payments made to Plaintiffs, as well as any other payments made pursuant to
26 this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to
27 which any Class Members and PAGA Employees may be eligible, including, but not limited to:
28 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave

1 plans, PTO plans, and any other benefit plans. Rather, it is the Parties' intention that this Settlement
2 will not affect any rights, contributions, or amounts to which any Class Members may be entitled
3 under any benefit plans.

4 **E. INDIVIDUAL, CLASS AND PAGA RELEASES**

5 1. Release of Claims by the Class Representatives. As a condition to obtaining the
6 Enhancement Payments provided for herein, the Class Representatives (on behalf of themselves,
7 heirs, executors, administrators, trustees, and/or permitted assigns) also agree to a general release
8 of any and all claims against the Released Parties—which shall include without limitation any and
9 all claims which in any way relate to their employment with Defendants, under State or Federal
10 law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not,
11 including but not limited to any claims under the FLSA, Title VII, ADA, FEHA, ADEA, PAGA,
12 California Labor Code, or any Industrial Welfare Commission Wage Order—now existing or
13 arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the
14 beginning of time to the date of execution hereof, except for those claims that may be prohibited
15 by law, such as claims for workers' compensation benefits. Plaintiffs further expressly waive and
16 relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section
17 1542 of the California Civil Code, which provides:

18 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
19 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
20 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE**
21 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
22 **AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED**
23 **PARTY.**

24 2. Release of Claims by Settlement Class Members. Upon the payment of the Gross
25 Settlement Amount, Plaintiffs and all Settlement Class Members, on behalf of themselves, their
26 heirs, executors, administrators, attorneys, agents and assigns, hereby do and shall waive, fully
27 release and forever discharge the Released Parties from any and all Released Class Claims.
28 Plaintiffs and Settlement Class Members shall be permanently barred and enjoined from the

1 institution or prosecution of any and all Released Class Claims against the Released Parties, except
2 as to such rights or claims as may be created by the Settlement.

3 3. Release of Claims by PAGA Employees. Upon the payment of the Gross Settlement
4 Amount, Plaintiffs and all PAGA Employees, on behalf of themselves, their heirs, executors,
5 administrators, attorneys, agents and assigns, shall waive, fully release and forever discharge the
6 Released Parties from any and all Released PAGA Claims.

7 **F. ADMINISTRATION OF NOTICE OF SETTLEMENT**

8 1. Settlement Administration Process. The Parties agree to cooperate in the
9 administration of the Settlement and to make all reasonable efforts to control and minimize the
10 costs and expenses incurred in the administration of the Settlement. The Settlement Administrator
11 shall provide the following services:

- 12 a. Establish and maintain a Qualified Settlement Fund account;
- 13 b. Calculate the amount of the settlement each Class Member/PAGA
14 Employee is eligible to receive;
- 15 c. Verify the last known address for each Class Member/PAGA Employee
16 through a generally utilized, national address update database prior to mailing the Notice Packet;
- 17 d. Print and mail the Notice Packet;
- 18 e. Establish and maintain a toll-free informational telephone support line to
19 assist Class Members/PAGA Employees who have questions regarding the Notice Packet;
- 20 f. Conduct additional address searches for mailed Notice Packets that are
21 returned as undeliverable and, to the extent new and more current addresses are found, also reprint
22 and re-mail Notice Packets accordingly;
- 23 g. Calculate Settlement Class Members/PAGA Employees' settlement share,
24 field inquiries from Class Members, and administer any Requests for Exclusion. This service will
25 include settlement proceed calculations, printing and issuance of checks, and preparation of W-2
26 and 1099 Forms;
- 27 h. Provide declarations and/or other information to the Court as requested; and
- 28 i. Establish and maintain and use an internet website to post information of

1 interest to Class Members including the date, time, and location for the Final Approval Hearing
2 and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary
3 Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees
4 Payment (if separate from the Motion for Final Approval), Class Counsel's litigation costs,
5 Enhancement Payments to Plaintiffs, the Final Approval and the Judgment. The Administrator will
6 also maintain and monitor an email address and a toll-free telephone number to receive Class
7 Member calls, faxes, and emails.

8 2. Delivery of the Class Data and List. Within fifteen (15) business days of
9 Preliminary Approval, Defendants shall provide the Class Data and List to the Settlement
10 Administrator.

11 3. Notice by First-Class U.S. Mail. Within ten (10) business days after receiving the
12 Class Data and List from Defendants, the Settlement Administrator shall mail a Notice Packet to
13 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
14 addresses identified in the Class List.

15 4. Confirmation of Contact Information in the Class List. Prior to mailing, the
16 Settlement Administrator shall perform a search based on the National Change of Address
17 Database for information to update and correct for any known or identifiable address changes.

18 5. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice
19 Packet will provide: (1) information regarding the nature of the Action; (2) a summary of the
20 Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated
21 Individual Class Payment and the formula for calculating Individual Class Payments; (5) each
22 PAGA Employee's estimated Individual PAGA Penalty Payment and the formula for calculating
23 Individual PAGA Penalty Payments; (6) the dates that comprise the Class Period and PAGA
24 Period; (7) instructions on how to submit valid Requests for Exclusion, or objections; (8) the
25 deadlines by which the Class Member must submit a Request for Exclusion or Notice of Objection
26 to the Settlement; (9) the date for the final approval hearing; and (10) the claims to be released.
27 The Notice Packet will also inform Class Members that, in order to receive the Individual Class
28 Payment and Individual PAGA Penalty Payment, they do not need to do anything except keep the

1 Settlement Administrator apprised of their current mailing addresses.

2 6. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement
3 Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via
4 regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
5 Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding
6 address is provided, the Settlement Administrator shall promptly attempt to determine the correct
7 address using a skip-trace, or other search using the name, address and/or Social Security Number
8 of the Class Member involved and shall then perform a re-mailing. Those Class Members who
9 receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days
10 from the original Response Deadline.

11 7. Settlement Administrator's Reports of Information. The Settlement Administrator
12 shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of
13 Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement
14 Administrator will provide to counsel for both Parties any updated reports regarding the
15 administration of the Settlement as needed or requested. The Settlement Administrator shall also
16 forward to Parties' counsel any Notices of Objection received immediately upon receipt. Further,
17 the Settlement Administrator shall immediately forward any Request for Exclusion to the Parties'
18 counsel so that they can determine whether the Request for Exclusion is valid and timely.

19 8. Certification of Completion. Upon completion of administration of the Settlement,
20 the Settlement Administrator shall provide a written declaration under oath to certify such
21 completion to the Court and counsel for all Parties.

22 9. Request for Exclusion Procedures. Any Class Member, other than Plaintiffs, may
23 opt-out from the Settlement by submitting a written Request for Exclusion to the Settlement
24 Administrator postmarked by the Response Deadline. A Request for Exclusion must: (1) clearly
25 state that the Class Member does not wish to be included in the Settlement; (2) set forth the name,
26 address, telephone number, and last four digits of the Social Security Number of the Class Member
27 requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the Settlement
28 Administrator at the specified address indicated in the Notice Packet; and (5) be postmarked on or

1 before the Response Deadline. The date of the postmark shall be the exclusive means to determine
2 whether a Request for Exclusion is timely. By submitting such a Request for Exclusion, a Class
3 Member shall be deemed to have exercised his or her option to opt out of the Settlement and not
4 be bound by this Agreement. At no time shall any of the Parties or their counsel seek to solicit or
5 otherwise encourage Class Members to submit a Request for Exclusion. Class Counsel shall not
6 represent any Class Members with respect to any such request.

7 10. No PAGA Opt-Out. No Class Member may opt out of or be excluded from
8 participating in the settlement of the Released PAGA Claims. All Class Members shall be bound
9 by the Final Order and Judgment entered herein and will have released the Released PAGA Claims
10 upon the final approval of this Settlement and the payment of the Gross Settlement Amount.

11 11. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
12 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
13 Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent,
14 including those pertaining to the Released Class Claims and Released PAGA Claims, as well as
15 any judgment that may be entered by the Court.

16 12. Defendants' Right to Rescind. If more than ten percent (10%) of Class Members
17 submit a timely and valid Request for Exclusion, Defendants will have the right, but not the
18 obligation, to revoke and void this Agreement at their discretion. Defendants must exercise the
19 option to rescind within five (5) business days of Defense Counsel receiving notification from the
20 Settlement Administrator that more than ten percent (10%) of Class Members have submitted
21 timely and valid Requests for Exclusion from the Settlement. If Defendants exercise this right to
22 void the Agreement, then the Parties will have no further obligations under the Agreement or the
23 Memorandum of Understanding signed by the Parties, including, without limitation, any obligation
24 by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have
25 been owed under this Agreement, except that Defendants shall pay all Settlement Administration
26 Costs incurred by the Settlement Administrator up to the date of Defendants' notice to rescind. In
27 the event the Settlement is terminated, the Parties shall proceed in all respects as if this Agreement
28 had not been executed. The Parties agree that they will not encourage any Class Member to object

1 to the Settlement or to opt out.

2 13. Objection Procedures. Any Class Member who does not opt-out of this Settlement
3 shall be entitled to object to the Settlement. To object to the Settlement, a Class Member must
4 return by mail a written statement of objection to the Settlement Administrator at the specified
5 address by the Response Deadline. The Notice of Objection must include: (1) the objector's full
6 name, signature, address, and telephone number; (2) a written statement of the basis for the
7 objection; and (3) any copies of papers, briefs, or documents upon which the objection is based.
8 Class Members may present objections at the final approval hearing, regardless of whether they
9 submitted a written objection. At no time shall any of the Parties or their counsel seek to solicit or
10 otherwise encourage Class Members to submit written objections to the Settlement or appeal from
11 the order and judgment. Class Counsel shall not represent any Class Members with respect to any
12 such objections to this Settlement. Any Class Member who submits a valid Request for Exclusion
13 shall not be allowed to object to this Settlement. No later than five (5) days after the Response
14 Deadline, the Settlement Administrator shall provide Defense Counsel with a complete list of all
15 Class Members who have timely and properly requested exclusion from the Class.

16 14. Disputes Regarding Individual Class Payments. In the event that Class Members
17 have a dispute as to the data provided by the Defendants, Class Members will have the opportunity
18 to provide documentation and/or an explanation. Any Class Member, may submit a written dispute
19 to the Settlement Administrator regarding the data, including: (i) the number of pay periods the
20 Class Member worked during the Class Period; and (ii) the number of pay periods the Class
21 Member worked during the PAGA Period. The dispute must be postmarked by the Response
22 Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to
23 determine whether an adjustment is warranted. The Settlement Administrator shall determine the
24 eligibility for, and the amounts of, any Individual Class Payments or Individual PAGA Penalty
25 Payments under the terms of this Agreement, and that determination shall be binding.

26 15. Administration Costs if Settlement Fails or is Delayed. If an objection to the
27 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
28 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall be

borne equally by Defendants and Plaintiffs unless otherwise specified in this Agreement.

G. COURT APPROVAL OF SETTLEMENT

1. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants of any such violation or failure to comply with any applicable law, regulation, or legal requirement. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission of any nature on the part of Defendants, or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local, or other applicable law.

2. Class Action Certification. The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of any kind by Defendants, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiffs or any Class Member can establish any of the requisite elements for class treatment of any of the claims in this Action. If, for any reason, the Settlement is not finally approved, this Agreement will be void and the Parties will be restored to their respective positions in the lawsuit as if they had not entered into this Agreement. The Parties further agree that this Agreement or any documents or orders issued related to this Settlement will not be admissible, other than according to the Settlement's terms, in this or any other proceeding as evidence that either: (i) a class action should be certified, or (ii) any Defendant or Released Party is liable to Plaintiffs or any Class Member.

1 3. Preliminary Approval Hearing. Plaintiffs shall obtain a hearing before the Court to
2 request the Preliminary Approval of the Settlement, conditional certification of the Class, and the
3 entry of a Preliminary Approval Order: (i) approving of the proposed Settlement, and (ii) setting a
4 date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall
5 provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction
6 with the Preliminary Approval hearing, Plaintiffs shall submit this Agreement, which sets forth
7 the terms of this Settlement, and will include the proposed Notice Packet, attached to this
8 Agreement as Exhibit A.

9 4. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit
10 Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's
11 permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the
12 Final Approval of the Settlement along with the amounts properly payable for (i) Individual Class
13 Payments; (ii) the PAGA Allocation; (ii) the Class Counsel Award; (iii) the Enhancement
14 Payments; and (iv) Settlement Administration Costs. Class Counsel will be responsible for drafting
15 all documents necessary to obtain final approval. Class Counsel will also be responsible for
16 drafting the attorneys' fees and costs application to be heard at the Final Approval Hearing.

17 5. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the
18 Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent with
19 the terms of this Agreement. After entry of the Final Order and Judgment, the Court shall have
20 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of
21 the terms of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment
22 matters as may be appropriate under court rules or as set forth in this Agreement.

23 H. FINAL PROVISIONS

24 1. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
25 this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
26 Settlement after arm's-length negotiations, mediation, and in the context of adversarial litigation,
27 taking into account all relevant factors, present and potential. The Parties further acknowledge that
28 they are each represented by competent counsel and that they have had an opportunity to consult

1 with their counsel regarding the fairness and reasonableness of this Agreement.

2 2. Exhibits Incorporated by Reference. The terms of this Agreement include the terms
3 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
4 herein. Any Exhibits to this Agreement are an integral part of the Settlement.

5 3. Confidentiality Preceding Preliminary Approval. The Parties and their counsel
6 agree that they will not issue any press releases, initiate any contact with the press, respond to any
7 press inquiry, post information on any social media or website, or have any communication with
8 the press about the fact, amount, or terms of the Settlement.

9 4. No Prior Assignments. The Parties and their counsel represent, covenant, and
10 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
11 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
12 action, cause of action, or right herein released and discharged.

13 5. Nullification of Settlement. In the event that the Settlement does not become final
14 for any reason, then this Agreement, and with the exception of the Hebdon Settlement Agreement,
15 any documents generated to bring it into effect, shall be null and void. Any order or judgment
16 entered by the Court in furtherance of this Agreement shall likewise be treated as void from the
17 beginning.

18 6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the
19 Settlement Administrator concerning the administration of the Settlement will be resolved by the
20 Court under the laws of the State of California. Prior to any such involvement of the Court, counsel
21 for the Parties will confer in good faith to resolve the disputes without the necessity of involving
22 the Court.

23 7. Entire Agreement. This Agreement, the Hebdon Settlement Agreement, and any
24 Exhibits attached hereto constitute the entirety of the Parties' Settlement terms. No other prior or
25 contemporaneous written or oral negotiations or agreements may be deemed binding on the
26 Parties.

27 8. Disputes Regarding Language of Final Settlement Agreement. If the Parties have a
28 dispute with regard to the language of the Agreement, the Parties agree to attempt to informally

1 resolve the dispute by engaging Michael Mandel to mediate such dispute.

2 9. Amendment or Modification. This Agreement may be amended or modified only
3 by a written instrument signed by the Parties or their successors-in-interest and with Court
4 approval.

5 10. Authorization to Enter into Agreement. Counsel for all Parties warrant and
6 represent they are expressly authorized by the Parties whom they represent to negotiate this
7 Agreement and to take all appropriate actions required or permitted to be taken by the Parties
8 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
9 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
10 other and use their best and good-faith efforts to affect the implementation of the Settlement. If
11 the Parties are unable to reach agreement on the form or content of any document needed to
12 implement the Settlement, or on any supplemental provisions that may become necessary to
13 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
14 such disagreement.

15 11. Binding on Successors and Assigns. This Agreement shall be binding upon, and
16 inure to the benefit of, the successors, heirs, or assigns of the Parties hereto.

17 12. California Law Governs. All terms of this Agreement and Exhibits hereto shall be
18 governed by and interpreted according to the laws of the State of California.

19 13. Execution and Counterparts. This Agreement is subject only to the execution of all
20 Parties. However, the Agreement may be executed in one or more counterparts. All executed
21 counterparts and each of them, including facsimile and scanned copies of the signature page, shall
22 be deemed to be one and the same instrument provided that counsel for the Parties shall exchange
23 among themselves original signed counterparts.

24 14. Invalidity of Any Provision. Before declaring any provision of this Agreement
25 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent possible
26 consistent with applicable precedents so as to define all provisions of this Agreement valid and
27 enforceable. Any invalid, illegal, or unenforceable provision determined by the Court shall in no
28 way affect any other provision if Defendants and Class Counsel, on behalf of the Parties and the

1 Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable
2 provision had never been included in this Agreement.

3 15. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,
4 that Plaintiffs or Class Counsel may appeal any reduction in the Class Counsel Award below the
5 amount Class Counsel requests, and either Party may appeal any order that materially alters the
6 Agreement's terms.

7 16. Captions. The captions and section numbers in this Agreement are inserted for the
8 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the
9 provisions of this Agreement.

10 17. Waiver. No waiver of any condition or covenant contained in this Agreement or
11 failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or
12 constitute a further waiver by such party of the same or any other condition, covenant, right, or
13 remedy.

14 18. Enforcement Actions. In the event that one or more of the Parties institutes any
15 legal action or other proceeding against any other Party or Parties to enforce the provisions of this
16 Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party or
17 Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable attorneys'
18 fees and costs, including expert witness fees incurred in connection with any enforcement actions.

19 19. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
20 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly
21 against one Party than another merely by virtue of the fact that it may have been prepared by
22 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
23 between the Parties, all Parties have contributed to the preparation of this Agreement.

24 20. Representation by Counsel. The Parties acknowledge that they have been
25 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
26 and that this Agreement has been executed with the consent and advice of counsel. Further,
27 Plaintiffs and Class Counsel warrant and represent that there are no liens on the Agreement.

28 21. Cooperation and Execution of Necessary Documents. All Parties shall cooperate in

1 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
2 this Agreement.

3 22. Binding Agreement. The Parties warrant that they understand and have full
4 authority to enter into this Agreement, and further intend that this Agreement shall be fully
5 enforceable and binding on all Parties and agree that it shall be admissible and subject to disclosure
6 in any proceeding to enforce its terms.

7 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
8 Joint Stipulation of Class and Representative Action Settlement Between Plaintiffs and Defendants
9 as of the date(s) set forth below:

10 **SIGNATURES**

11 **READ CAREFULLY BEFORE SIGNING**

12
13 DATED: _____ **PLAINTIFF MELISSA HEBDON**

14
15 _____
16 Plaintiff Melissa Hebdon

17 DATED: _____ **PLAINTIFF ANNETTE LEWIS**

18
19 _____
20 Plaintiff Annette Lewis

21 DATED: August 29, 2024 **DEFENDANT MISSION HEALTHCARE**
22 **SERVICES, LLC**

23 Signed by:

24 *Philip Spencer*

25 P066196C3222412...

26 Philip Spencer

27 Please Print Name of Authorized Signatory
28

1 DATED: August 29, 2024

2 **DEFENDANT HEALTHY LIVING AT**
3 **HOME - MONTEREY, LLC**

4 Signed by:

5 *Philip Spencer*

6 F068196C5222412...

7 Philip Spencer

8 Please Print Name of Authorized Signatory

9 DATED: August 29, 2024

10 **DEFENDANT HEALTHY LIVING**
11 **RESOURCES, LLC**

12 Signed by:

13 *Philip Spencer*

14 F068196C5222412...

15 Philip Spencer

16 Please Print Name of Authorized Signatory

17 **APPROVED AS TO FORM**

18 DATED: _____

19 **FITZPATRICK & SWANSON**

20 _____
21 B. James Fitzpatrick

22 Laura L. Franklin

23 Attorneys for Plaintiffs and the Class

24 DATED: _____

25 **DIVERSITY LAW GROUP, P.C.**

26 _____
27 Larry W. Lee

28 Kristen M. Agnew

Attorneys for Plaintiffs and the Class

DATED: _____

SWARTZ & KENNEDY

Andrew H. Swartz

Attorneys for Plaintiffs and the Class

1
2 DATED: August 29, 2024

STAMBELOS LAW OFFICE

3
4 DocuSigned by:

Patricia T. Stambelos

5 Patricia Stambelos
6 Attorney for Defendants

7 DATED:

HOLLAND & HART, LLP

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10 Gregory M. Saylin
11 Kody L. Condos
12 Attorneys for Defendants
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Laura L. Franklin (SBN: 282642)
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12 Facsimile: (831) 373-8211

13 Attorneys for Plaintiff,
MELISSA HEBDON, on behalf of herself and all other similarly situated employees

14 *(Additional Counsel on following page)*

15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF MONTEREY**

18 MELISSA HEBDON, on behalf of herself
19 and all similarly aggrieved employees,

20 Plaintiff,

21 v.

22 MISSION HEALTHCARE SERVICES,
LLC; HEALTHY LIVING NETWORK
23 RESOURCES, LLC; HEALTHY LIVING
AT HOME - MONTEREY, LLC; and DOES
24 1 through 50, inclusive,

25 Defendants.

Case No.: 22CV000226

*Assigned to the Honorable Carrie M. Panetta
for all purposes*

**JOINT CASE MANAGEMENT
STATEMENT**

Date: July 18, 2023
Time: 9:00 a.m.
Dept.: 14

1 Patricia T. Stambelos (SBN: 166998)
2 STAMBELOS LAW OFFICE
3 543 Country Club Dr., Suite B209
4 Simi Valley, CA 93065

5 Gregory M. Saylin (SBN 185328)
6 PARTNER, HOLLAND & HART LLP
7 222 South Main, Suite 2200
8 Salt Lake City, UT 84101
9 Tel: (801) 799-5800
10 GMSaylin@hollandhart.com

11 Attorneys for Defendants,
12 Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC
13 and Healthy Living At Home - Monterey, LLC
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1 Plaintiffs MELISSA HEBDON and ANNETTE LEWIS ("Plaintiff"), together with
2 Defendants MISSION HEALTHCARE SERVICES, LLC; HEALTHY LIVING NETWORK
3 RESOURCES, LLC; HEALTHY LIVING AT HOME - MONTEREY, LLC ("Defendants"),
4 hereby submit this Joint Case Management Conference Statement.

5 **1. STATUS OF PLEADINGS**

6 Plaintiffs filed a First Amended Complaint on August 22, 2022 alleging claims for
7 violation of California Labor Code §§ 201-203, 226, 226.7, 510, 512, 1194, 1197, 1198, and
8 2698. Additionally, Plaintiff Hebdon brings a number of individual claims based on her
9 termination and a claim for violation of the California Equal Pay Act. Plaintiffs do not
10 anticipate adding any other defendants, but reserve their right to do so.

11 Defendants have timely answered.

12 **2. CENTRAL ISSUES**

13 Plaintiff's Position: This lawsuit is premised on the allegation that Plaintiffs and other
14 employees of Defendants were required to remain on premises during their meal and rest
15 breaks, were not paid the correct overtime rate due to a failure to factor in non-discretionary
16 bonuses into the regular rate of pay, received non-compliant wage statements, were not paid
17 the correct rate for sick time pay, and are owed waiting time penalties.

18 Additionally, Plaintiff Hebdon alleges a number of claims based on her termination
19 and a claim for violation of the California Equal Pay Act.

20 Defendant's Position: Defendants deny all claims made against them and maintain that
21 employees were properly classified, received their meal and rest breaks, were paid the correct
22 overtime rate, provided compliant wage statements, paid correct sick time rates, and waiting
23 time penalties. Defendants also deny all of Plaintiff Hebdon's individual allegations.

24 **3. STATUS OF DISCOVERY**

25 Plaintiff's Position: Plaintiffs have issued written discovery seeking Defendants'
26 policies, Defendants' organizational structure, the identities of relevant decisionmakers,
27 information relating to the class size, and time and pay data for the putative class. Defendant
28 has provided some of the data requested and is continuing to provide data on a rolling basis.

1 Defendant's Position: Defendants continue to respond to written discovery and
2 anticipate serving discovery on Plaintiffs in the coming weeks.

3 **4. STATUS OF SETTLEMENT OR MEDIATION**

4 The Parties have attended two mediations but have been unable to resolve this matter.

5 **5. ANTICIPATED MOTIONS**

6 Plaintiff's Position: Plaintiff will file a Motion for Class Certification at the appropriate
7 time.

8 Defendant's Position: Defendants anticipate one or more dispositive motions and a
9 motion opposing Plaintiffs' motion for class certification. Defendants also anticipate
10 requesting that the Court discuss a schedule for class certification and contend that it should
11 occur after the determination of the alter ego / joint employment issues and Plaintiff Hebdon's
12 individual claims.

13 **6. REQUEST FOR NEXT CASE MANAGEMENT CONFERENCE DATE**

14 Parties' Position: Plaintiff asks that the Court schedule a further case management
15 conference approximately three months out.

16 Defendant's Position: Defendants ask that the Court schedule a further case
17 management conference approximately three months out.

18 **7. NOTICE OF RELATED CASES**

19 There are no pending related cases.

20 Defendants believe that the following cases may be companion, underlying, or related
21 cases:

22 (1) Name of Case: *Dougan v. Healthy Living at Home San Diego, LLC, et al.*

23 (a) Name of Court: San Diego Superior Court

24 (b) Case Number: 37-2020-00018447-CU-OE-CTL

25 (c) Status: Class Settlement Approved.

26 (2) Name of Case: *Black v. Mission Healthcare Services, Inc.*

27 (a) Name of Court: Los Angeles Superior Court

28 (b) Case Number: 19STCV04602

(c) Status: Class and PAGA Settlement Approved.

8. ANY OTHER MATTERS FOR WHICH THE PARTIES MAY NEED COURT RULINGS OR SCHEDULING

Plaintiff's Position: None

Defendant's Position: None

30126774_v2

Dated: July 13, 2023

FITZPATRICK & SWANSTON
DIVERSITY LAW GROUP, P.C.
SWARTZ & KENNEDY

By: /s/ B. James Fitzpatrick
B. James Fitzpatrick
Larry W. Lee
Andrew H. Swartz

Attorneys for Plaintiff
MELISSA HEBDON, on behalf of herself and
all other similarly situated employees

Dated: July 13, 2023

STAMBELOS LAW OFFICE
PARTNER, HOLLAND & HART LLP

By: /s/ Patricia T. Stambelos
Patricia T. Stambelos
Greg Saylin (SBN 185328)

Attorneys for Defendants,
Mission Healthcare Services, LLC,
Healthy Living Network Resources, LLC
and Healthy Living At Home - Monterey, LLC

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On July 13, 2023, I served the following document(s) described as: **JOINT CASE MANAGEMENT STATEMENT** on the interested parties in this action as follows:

Patricia T. Stambelos Stambelos Law Office 543 Country Club Dr., Ste B209 Simi Valley, CA 93065	<i>Attorneys for Defendants Mission Healthcare Services, LLC, Healthy Living at Home – Monterey, LLC, and Healthy Living Network Resources, LLC</i> patricia@patriciastambelos.com
Gregory M. Saylin HOLLAND & HART LLP 222 South Main Street, Suite 2200 Salt Lake City, UT 84101	<i>Attorneys for Defendants Mission Healthcare Services, LLC, Healthy Living at Home – Monterey, LLC, and Healthy Living Network Resources, LLC</i> GMSaylin@hollandhart.com
Andrew H. Swartz SWARTZ & KENNEDY 550 Hartnell St Ste A1 Monterey, CA 93940-2816	<i>Attorneys for Plaintiffs, MELISSA HEBDON and ANNETTE LEWIS, on behalf of themselves and all other similarly situated employees</i> andy@swartzkennedylaw.com

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

1 I declare under penalty of perjury under the laws of the State of California that the
2 above is true and correct. Executed on July 13, 2023, at Los Angeles, California.

3 
4 _____
Erika Mejia